

SUMMARY REPORT OF INVESTIGATION¹**I. EXECUTIVE SUMMARY**

Date of Incident:	July 16, 2017
Time of Incident:	Approximately 3:08 a.m.
Location of Incident:	██████████ Avenue (alley), Chicago, Illinois 60634
Date of COPA Notification:	July 16, 2017
Time of COPA Notification:	Approximately 11:06 a.m.

On July 16, 2017, Officers Michael Rodriguez and Dennis McMillan were on routine patrol when they pulled over a 2004 Mercury Sable for failure to use a turn signal and an expired license plate. Officer Rodriguez approached the vehicle and spoke to the driver. Officer Rodriguez observed a firearm on the floorboard in front of the driver side rear passenger, now known as ██████████. Officer Rodriguez instructed ██████████ not to reach for the firearm, but ██████████ did not comply. Officer Rodriguez and responding Sergeant Sean Ronan discharged their firearms at ██████████.

II. INVOLVED PARTIES

Involved Officer #1:	Rodriguez Michael; Star: #5978; Employee ID#: ██████████ Date of Appointment: July 9, 2007; Rank: Police Officer; Unit of Assignment: District 25; DOB: ██████████ Male; Hispanic
Involved Officer #2:	Sean Ronan; Star: #2121; Employee ID#: ██████████ Date of Appointment: November 22, 1993; Rank: Sergeant; Unit of Assignment: District 25; DOB: ██████████ Male; White
Subject #1:	██████████ DOB: ██████████ Male; Hispanic

LOG # _____

Attachment # _____

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Michael Rodriguez	It is alleged that on July 16, 2017, Accused Officer Michael Rodriguez Star #5978, Employee # [REDACTED] Unit 025, while on-duty: 1. Did not have his firearm full loaded, in violation of Rules 2 and 3.	Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.²

2. **Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.³

General Orders

1. **Chicago Police Department Uniform and Property Order U04-02:** Department Approved Weapons and Ammunition, Section II. —

N. Firearms will be fully loaded with only one manufacturer and style of prescribed ammunition (same bullet type and grain weight).

² This Rule applies to both the professional and private conduct of all members. It prohibits any and all conduct which is contrary to the letter and spirit of Departmental policy or goals or which would reflect adversely upon the Department or its members. It includes not only all unlawful acts by members but also all acts, which although not unlawful in themselves, would degrade or bring disrespect upon the member or the Department, including public and open association with persons of known bad or criminal reputation in the community unless such association is in the performance of police duties. It also includes any action contrary to the stated policy, goals, rules, regulations, orders or directives of the Department.

³ This Rule prohibits any omission or failure to act by any member of the Department, whether on or off duty, which act would be required by the stated policy, goals, rules, regulations, orders and directives of the Department. It applies to supervisory and other members who, through carelessness, inefficiency or design fail to implement all policy goals, rules, regulations, orders and directives of the Department or fail to report to the Department any and all known violations of same, or who through carelessness, inefficiency or design fail to become aware of any such violation, when their assigned duty or supervisory responsibility would require them to become so aware.

V. INVESTIGATION

COPA obtained relevant documentary and forensic evidence associated with this incident. Additionally, COPA reviewed interviews conducted by Chicago Police Department (CPD) detectives from the other civilians who occupied the 2004 Mercury and reported witnessing various aspects of the incident as well as what took place prior to this encounter. COPA also interviewed the involved officers. Summaries of these interviews and statements follow.

a. Interviews

Witness Interview

On July 16, 2017, **Witness** [REDACTED] (a minor), the cousin of [REDACTED] provided an **Electronic Recorded Interview (ERI)** to CPD Detectives Leonard Denuto and Ramon Sandoval at the Area North Detective Division. Ms. [REDACTED] stated that she was in the 2004 Mercury with her brother, [REDACTED] her boyfriend, [REDACTED] and her cousin, [REDACTED] during the incident on July 16, 2017, at approximately 3 A.M. Ms. [REDACTED] stated that she was the passenger, [REDACTED] was driving, [REDACTED] was the driver side rear passenger, and [REDACTED] was seated behind her in the passenger side rear.

Ms. [REDACTED] stated that she and the occupants of the vehicle were on their way to [REDACTED] house to eat when they were pulled over in the alley. Ms. [REDACTED] stated that an officer approached on the driver side (now known as Officer Rodriguez) and the passenger side (now known as Officer McMillan), and Officer Rodriguez asked for [REDACTED] license and insurance which [REDACTED] provided. Ms. [REDACTED] stated that the officers shined their lights in the car, and Officer Rodriguez asked about the alcohol and then about the gun. Ms. [REDACTED] stated Officer Rodriguez told them all to show their hands, and told [REDACTED] to not touch the gun several times. Ms. [REDACTED] stated that [REDACTED] told Officer Rodriguez numerous times, "shoot me, go ahead and shoot me, I'm not going to comply with you." Ms. [REDACTED] stated that she heard [REDACTED] opening the door, and then heard gunshots, but she didn't see [REDACTED] until he was taken to the ambulance. (Attachments 18 & 87)

On July 16, 2017, **Witness** [REDACTED] boyfriend of [REDACTED] provided an **ERI** to CPD Detectives Abdalla Abuzanat and Leonard Goduto at the Area North Detective Division. [REDACTED] corroborated the number of people in the car, and provided the same version of events as Ms. [REDACTED] stated that he put his car in park in the alley, and Officer Rodriguez approached and asked for his driver license and registration. [REDACTED] stated Officer Rodriguez was shining his flashlight on his hands, and after handing over his driver's license, Officer Rodriguez stepped back and directed the light into the back seat. [REDACTED] thought that [REDACTED] was reaching for the gun and that Officer Rodriguez saw him reaching because Officer Rodriguez stated "Oh---oh, you better not reach for that gun." [REDACTED] stated Officer Rodriguez told [REDACTED] not to reach for the gun four or five times, but [REDACTED] stated "I'm gonna reach for the gun, and you better put one in my head, and you—and you better not miss and hit my cousin." [REDACTED] stated that [REDACTED] was hysterical, and he told [REDACTED] to not reach for the gun because his cousin was right next to him.

[REDACTED] stated that he heard more sirens and footsteps, and then heard the rear car door open. [REDACTED] stated that he saw [REDACTED] stumbling, but he may have been trying to reach for the

gun. ██████ stated that the firearm was now out of the car and the officers were yelling, "You better not—don't go for that gun." ██████ stated that he saw ██████ out of the corner of his eye and thought to himself, either ██████ saw something or he's trying to reach the firearm, and the officers fired their weapons 4 or 5 times. ██████ stated that ██████ stepped back and then fell, and officers told everybody to put their hands up. One officer said to get ██████ away from the gun, and an officer in a white shirt, now known as Sgt. Ronan, pulled ██████ away from the gun. ██████ stated that everyone was removed from the car, and he was handcuffed and brought to the district but received no injuries from the incident.⁴

On July 16, 2017, Witness ██████ cousin of ██████ and brother of ██████ provided an ERI to CPD Detectives Leonard Denuto and Ed Hearse at the Area North Detective Division. ██████ gave a similar account of the incident as the other witnesses. He stated that as they were near ██████ residence, the police pulled them over in the alley. ██████ stated that ██████ and the officer became loud, and he remembered the officers had their guns drawn. ██████ stated that he was trying to calm ██████ down and stay still because he didn't want to get shot while ██████ was going back and forth with the police. ██████ stated that he heard about six gunshots and officers telling ██████ to not reach for the gun, but doesn't remember hearing anything else or ██████ reaching for the gun or exiting the vehicle.⁵

COPA Investigators and CPD conducted a total of two canvasses, to locate additional witnesses. No witnesses with relevant information were found.⁶

CPD in the presence of COPA investigators also obtained surveillance video from the residence located at ██████. There was no relevant footage of the incident. There was no additional surveillance video identified as functional and that captured the incident from the canvasses.⁷

Officer Interviews⁸

On July 20, 2017, Officer Dennis McMillan, #17731, stated that, on July 16, 2017, he and his partner, Officer Michael Rodriguez, #5978, were on routine patrol in the 25th District. Officer McMillan stated that Officer Rodriguez was driving a marked Ford Explorer equipped with an in-car camera; however, on the night of the incident the camera was frozen and a ticket was put in due to it being non-operational. Officer McMillan stated that later the camera login screen appeared and they logged in, but that they forgot to put on their microphones because they originally believed the camera was inoperable.

⁴ Attachments 19 & 88.

⁵ Attachments 20 & 89.

⁶ Attachments 7 & 12.

⁷ Attachments 15 & 66 – 68.

⁸ Officer Clapa, Officer Beluso, and Officer Kondilis were also interviewed regarding this incident as witnesses. They all provided substantially similar accounts as the accounts provided by Officer McMillan, Officer Rodriguez and Sergeant Ronan, but Officer Kondilis did not see or recall much of the incident. All of these officers also provided statements to detectives just following the incident, and all provided substantially the same account of the events which is summarized in the Detective Supplement Report. (Attachments 38-41, 71, 90-96, 129)

Officer McMillan stated that during their tour of duty, a car turned north on Mulligan from Diversey and the officers turned north on Mulligan as well. Officer McMillan stated that the car then turned into the alley, but did not use its turn signal so Officer Rodriguez activated their vehicle's police lights. Officer McMillan stated the car went north in the t-alley and stopped, and their police vehicle was facing a northeast direction behind the car on an angle in the t-alley. Officer McMillan stated that he could see there were four occupants in the car. Officer Rodriguez went up to speak with the driver (██████████) and he was on the passenger side near the rear passenger window (where ██████████ was sitting). Officer McMillan stated that he saw open alcohol, and asked ██████████ about it when he rolled down the window, at which point Officer Rodriguez relocated and began talking with the driver side rear seat passenger (██████████). Officer McMillan stated that Officer Rodriguez asked ██████████ about open alcohol, and he saw Officer Rodriguez had his flashlight shining on a black semi-automatic pistol at ██████████ feet and both officers drew their weapon.

Officer McMillan stated that Officer Rodriguez ordered ██████████ to put his hands up. Officer McMillan stated that at first ██████████ was compliant with Officer Rodriguez, but after Officer Rodriguez radioed for assistance ██████████ became non-compliant. Officer McMillan stated that Officer Rodriguez was trying to have a dialogue with ██████████ but ██████████ was saying "I ain't fuckin' going to jail." Officer McMillan stated that he radioed for assistance to "Step it up" and then saw the blue lights and heard screeching of tires, at which point Officer Rodriguez told ██████████ not to reach for the gun several times. Officer McMillan stated the ██████████ reached for the gun and then he jumped back, and heard two shots.⁹ Officer McMillan stated that when he jumped back, he saw Officer Grzegorz Clapa to his right and Sgt. Sean Ronan coming up on his left.

Officer McMillan stated that Officer Rodriguez and Sgt. Ronan gave verbal commands to ██████████ to stay in the vehicle, but the door opened and ██████████ got out stumbling. Officer McMillan stated that officers were screaming at ██████████ to not reach for the gun, but ██████████ reached for something and Sgt. Ronan fired his weapon. Officer McMillan stated that he thought he heard two different guns, and Officer Rodriguez may have fired as well but he wasn't sure. Officer McMillan stated he heard about 5-7 shots.

On July 21, 2017, **Officer Michael Rodriguez, #5978**, stated that, July 16, 2017, he and his partner, Officer Dennis McMillan, #17731, were on routine patrol in the 25th District. Officer Rodriguez's narrative of the events leading up to the stop was substantially the same as those given by other involved officers. Officer Rodriguez stated that he approached the vehicle's driver side and Officer McMillan approached the passenger side of the vehicle. Officer Rodriguez stated that as he approached the vehicle he could see there were four occupants and told them to put their hands-up for safety. Officer Rodriguez stated that he stood next to the car in between the driver and rear driver-side door,¹⁰ and contacted the driver who was only able to produce a license. Officer Rodriguez stated that he looked inside the car with his flashlight and saw that the occupants

⁹ Officer McMillan interpreted the shots as coming from Officer Rodriguez, and the shots were in quick succession. Officer McMillan stated that he didn't fire because he didn't have a good shot and would have had to shoot over the civilian in the passenger side rear seat.

¹⁰ Officer Rodriguez stated that the driver's window was down and the rear driver-side passenger's window was partially down (halfway).

all looked under the age of 21 years old.¹¹ Officer Rodriguez stated that he could smell alcohol and a faint smell of burnt cannabis from inside the vehicle.

Officer Rodriguez stated that he asked the rear driver-side passenger, now known as [REDACTED] if there was any alcohol in the vehicle, and [REDACTED] eye looked down which prompted Officer Rodriguez to look down between [REDACTED] feet where he saw the barrel of a handgun. Officer Rodriguez stated that he yelled "Gun! Gun! Gun!" to alert his partner, drew his weapon, and went over the radio to request assistance. Officer Rodriguez stated that [REDACTED] immediately became angry and stated "I'm not going to jail. I'm not going to jail. You're going to have to kill me." Officer Rodriguez stated that [REDACTED] continued to tell Officer Rodriguez to kill him, and Officer Rodriguez continued to give [REDACTED] verbal commands to not reach for the weapon and to keep his hands where they could be seen. Officer Rodriguez stated that the front seat passenger, now known as [REDACTED] was screaming and he heard the other occupants saying something to the effect of "calm down" to [REDACTED]

Officer Rodriguez stated that he tactically positioned himself on an angle towards the rear of the vehicle, where he had a line of sight on [REDACTED] and his hands. Officer Rodriguez stated that it felt like he was going back and forth with [REDACTED] for a while, and [REDACTED] then turned towards him, read his nametag and said, "Rodriguez, Rodriguez, if you don't kill me, I'm gonna kill you." Officer Rodriguez again gave [REDACTED] a command to keep his hands where they could be seen, and then [REDACTED] said, "I'm gonna go for it. I'm gonna go for it...don't shoot my cousin." Officer Rodriguez stated that [REDACTED] then yelled at the other occupants to get out of the vehicle, but Officer Rodriguez ordered them to stay in the vehicle. At that point, Officer Rodriguez stated that [REDACTED] body hunched over with his hands down between his feet, and Officer Rodriguez discharged his weapon approximately 2-3 times. Officer Rodriguez stated that the rear driver-side window was then shattered.

Officer Rodriguez stated that he saw [REDACTED] was keeled over to the left-side, and he began to re-approach to see if [REDACTED] needed medical attention but as he was approaching, [REDACTED] hunched over again, grabbed the gun with his left hand and dropped it out the window. Officer Rodriguez stated that the gun landed next to the driver side rear door, and the door to the rear of the vehicle opened. Officer Rodriguez stated that he gave verbal commands to "Stay in the vehicle!" Officer Rodriguez stated that [REDACTED] limped to the weapon, picked the weapon up with his left hand in a shooting grip, and spun towards Officer McMillan. Officer Rodriguez stated that he discharged his weapon again 2-3 times at [REDACTED]

Officer Rodriguez stated that after he discharged his weapon, [REDACTED] fell to the ground on his chest on top of the gun. Officer Rodriguez stated that he wasn't aware of any other officers shooting and didn't know if [REDACTED] had shot his gun, but Sgt. Ronan began running forward and screamed "Stop firing! Stop firing! Cover me!" Officer Rodriguez stated that Sgt. Ronan grabbed [REDACTED] and dragged him a short distance away from the gun. Officer Rodriguez stated that he holstered his weapon, but saw that [REDACTED] left hand was by his waist area, so he performed an emergency handcuffing on [REDACTED] to get his hand away from his waist.¹² Officer Rodriguez stated that once [REDACTED] was in handcuffs, Sgt. Ronan ordered the rest of the occupants out of the vehicle

¹¹ Officer Rodriguez stated he asked the occupants ages and they were all between 17 and 20 years old.

¹² A pat down found no additional weapon on [REDACTED]

and they were separated and put in different squad cars. An ambulance was called and [REDACTED] was taken to the hospital. Officer Rodriguez stated that he and Sgt. Ronan also went by ambulance together to the hospital due to shortness of breath.¹³

Officer Rodriguez stated that his magazine was counted at the district and there were six rounds missing; however, he advised that although his magazine holds 13 rounds, he only carries 12 rounds in the magazine because the magazine springs are too tight.¹⁴ Officer Rodriguez also reported that the dash camera in the vehicle was not working the night of the incident, and a ticket had been put in for it. Officer Rodriguez stated that he powered off the dash camera, but it had powered back on without an option to log on. Due to the dash camera having a ticket in for repair, Officer Rodriguez stated that neither he nor Officer McMillan wore a microphone.

On August 2, 2017, **Sergeant Sean Ronan, #2121**, provided a substantially similar account to Officers Rodriguez and McMillan. Sergeant Ronan was on routine patrol when he heard Beat 2523R (Officers Rodriguez and McMillan) request assistance. Sergeant Ronan stated he located Officers Rodriguez and McMillan in the north alley of Diversey, east of Mulligan avenue.

Sergeant Ronan reported that he heard “two pops” while exiting his police vehicle. Sergeant Ronan observed Officer Rodriguez by the driver’s side door of Beat 2523R’s marked police vehicle and Officer McMillan by the garage east of the alley. Sergeant Ronan observed a male subject (now known as [REDACTED]) exit the driver’s side passenger side door and walk in a northwestern direction towards a handgun on the ground. Sergeant Ronan ordered [REDACTED] to “get to the ground” and to “leave the gun alone,” but [REDACTED] bent over and picked up the gun and began to motion towards him. Sergeant Ronan stated that he feared that [REDACTED] would shoot Officer Rodriguez or himself and that he discharged his firearm 5-7 times.¹⁵ Sergeant Ronan reported that he stopped firing when [REDACTED] fell to the concrete. Sergeant Ronan stated that he did not hear any gunshots from any other officer after he opened fire.

Sergeant Ronan stated that it is better to have a full magazine and that he performed an emergency reload because he was not certain about the possible involvement of the other occupants of the civilian vehicle and he did not know whether [REDACTED] still posed a threat because he could not see his hands. Sergeant Ronan stated that he ordered [REDACTED] to show him his hands, but that [REDACTED] did not comply. Sergeant Ronan asked Officer Rodriguez to cover him and approached [REDACTED]. Sergeant Ronan grabbed [REDACTED] and removed him from the vicinity. Sergeant Ronan stated that Officer Rodriguez approached [REDACTED] and handcuffed him. Sergeant Ronan stated that he requested an ambulance for [REDACTED].

b. Digital Evidence

Crime Scene Photographs

The crime scene photographs depict the scene of the shooting from various angles. The photographs depict multiple pictures of the location of the incident and marked evidence to include

¹³ Officer Rodriguez and Sgt. Ronan were treated for having an anxiety attack.

¹⁴ Officer Rodriguez was interviewed again on January 2, 2018, regarding his statement that his weapon was not fully loaded. He had nothing further to add to his previous statement.

¹⁵ Sergeant Ronan stated that at the time of the incident he was not certain exactly how many shots he fired, but that he now knows he discharged his weapon six times.

but not limited to: a black semi-automatic pistol next to a civilian vehicle in the alley behind [REDACTED] multiple shell casings, a pair of pants and personal items next to a small pool of blood in the alley, and the interior/exterior of the civilian vehicle; which showed broken glass, a bottle of rum, and various drops of blood.¹⁶

*Video Evidence*¹⁷

The **in-car camera** footage from beat 2523R displays parts of the incident, but due to the positioning of the vehicle it does not capture [REDACTED] at any point during the interaction. Officer McMillan is seen exiting the police vehicle and walking along the passenger side of the civilian vehicle with his flashlight on. A short time later, Officer McMillan bends over slightly looking into the vehicle and Officer Rodriguez says, "Don't...gun...Do not reach for the gun." It appears that Officer McMillan unholsters his weapon at this time while still flashing his light into the vehicle. There is verbal exchange between Officer Rodriguez and [REDACTED] and you can hear Officer Rodriguez keep saying "don't move for the gun...keep your hands where I can see them." [REDACTED] is heard yelling "I don't give a fuck," "shoot me bro," and "Fuck You" multiple times. The sound of sirens becomes louder, and you can hear what appears to be the sound of people running. As two officers come into focus, Officer Rodriguez says, "there is a gun right there, don't move" and two shots ring out.

Officers are yelling shots fired, and it appears Officer McMillan relays that into his radio. Officers are yelling for the occupants to get their hands up and to not reach for the gun. Sgt. Ronan is then seen in front of the police vehicle with his gun drawn yelling to get away from the gun at which point he discharges his weapon approximately six times. An additional shot is heard after it appears Sgt. Ronan stopped firing. Sgt. Ronan is seen radioing that shots were fired and to "roll fire," as he slowly walks toward the driver's side rear of the civilian vehicle and continues to give verbal commands to not move. Sgt. Ronan then moves around the passenger's side of the civilian vehicle out of view, and other officers remove the passenger side occupants of the civilian vehicle.

c. Physical Evidence

Crime Scene Processing Report

According to the Crime Scene Processing Report, there were eleven (11) expended Winchester .40 caliber shell casings recovered from the "T" alley between Mobile and Mulligan, just north of Diversey.¹⁸ One of the shell casings was located on the roof of police vehicle 9341 located in the alley. A fired bullet was in the exterior siding of the garage located at [REDACTED] A Glock 22, .40 caliber semi-automatic black finish firearm, serial #GGF082,¹⁹

¹⁶ Attachment 85.

¹⁷ There is no body worn camera (BWC) footage that captured the incident. District 25 was not assigned BWC during the time of the incident. The BWC footage from outside units does not capture the incident. In addition, beat 2510R, who parked behind beat 2523R, did not have dash camera footage due to the camera being inoperable at the time. There was also a repair ticket submitted prior to the incident regarding the dash camera for beat 2523R because the machine froze.

¹⁸ One live Winchester .40 caliber round was also recovered at the scene. COPA finds that it is more likely than not that this round came from Sergeant Ronan's first magazine.

¹⁹ Inventoried under #13960335

with rounds in the magazine but not the chamber, was in the alley next to the civilian vehicle's driver side door.²⁰ This firearm was reported to belong to [REDACTED]

d. Documentary Evidence

Reports

COPA gathered relevant Reports related to this incident including: An Arrest Report, Officer Rodriguez's and Sgt. Ronan's Tactical Response Report (TRR) and Officer's Battery Report (OBR), Detective Supplementary Reports, the Chicago Fire Department Ambulance Report, and Medical Records.²² These records included substantially similar, or corroborating, accounts of the incident as those given by the involved individuals whose interviews are summarized above.²³

OEMC²⁴ Queries, 911 Calls and Radio Transmissions

OEMC event queries, 911 calls, and radio transmissions were collected and made part of this case file. These records were consistent with the officers' statements.²⁵

VI. ANALYSIS

A. Officer Rodriguez's and Sgt. Ronan's Use of Deadly Force Was Justified under General Order 03-02-03 and the Fourth Amendment to the United States Constitution

1. Legal Standard

The applicable Chicago Police Department General Order is 03-02-03, II, which states that a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. To prevent death or great bodily harm to the sworn member or to another person, or:
2. To prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:

²⁰ The Illinois State Police (ISP) Laboratory Reports indicates there were no latent prints suitable for comparison for the firearm inventoried under #13960335. Furthermore, upon inspection, the magazine consisted of 15 live cartridges. The swab taken from the gun and inventoried under #13960337 was examined in comparison to a buccal standard taken from [REDACTED] and inventoried under #14047550. There was a mixture of at least two DNA profiles on the gun; however, "a major human DNA profile" matched [REDACTED] and "the expected frequency of occurrence for this DNA profile was calculated for the African America, Caucasian, and Hispanic population groups and was found to be no more common than approximately 1 in 35 octillion unrelated individuals." (Attachments 113, 116, & 123)

²¹ Attachments 49-51, 113, 116 & 123.

²² [REDACTED] medical records reflect that his alcohol level was 225 mg/dl and tested positive for amphetamines, benzodiazepines, and cocaine metabolite (Att. 86).

²³ Attachments 5-11, 83-84, 86, 110-112, 115-116 and 128-130.

²⁴ Office of Emergency Management and Communication

²⁵ Attachments 43-48.

- a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
- b. is attempting to escape by use of a deadly weapon or;
- c. otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

In addition, the use of deadly force is codified under 720 ILCS 5/7-5 (1986). The pertinent part of the statute states that:

. . . a peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person. . . .

Finally, determinations regarding the potential use of excessive force in the course of an arrest, investigatory stop, or other seizure are properly analyzed under the Fourth Amendment's objective reasonableness standard. The question is whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989); see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The following factors are instructive in making the determination of whether an officer's use of force is reasonable: (1) "the severity of the crime at issue;" (2) "whether the suspect poses an immediate threat to the safety of the officers or others;" and (3) whether he is actively resisting arrest or attempting to evade arrest by flight." *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)). This reasonableness calculation "must embody allowance for the fact that police officers are often forced to make split second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham*, 490 U.S. at 396-97. Consequently, "when an officer believes that a suspect's actions [place] him, his partner, or those in the immediate vicinity in imminent danger of death or serious bodily injury, the officer can reasonably exercise the use of deadly force." *Muhammed v. City of Chicago*, 316 F.3d 380, 383 (7th Cir. 2002) (quoting *Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir. 1988) (*en banc*) (omitting emphasis)).

2. Analysis

Officer Rodriguez's and Sgt. Ronan's use of deadly force was objectively reasonable in light of the fact and circumstances confronting them. Officer Rodriguez's and Sergeant Ronan's statements are credible and are corroborated by video evidence, physical evidence, and the statements provided by both the occupants of the civilian vehicle and the other officers on the scene. COPA finds that Officer Rodriguez instructed [REDACTED] on multiple occasions not to reach for the firearm or touch the firearm and warned [REDACTED] that he would shoot him if he reached for the

firearm. COPA finds that [REDACTED] ignored Officer Rodriguez's clear commands and repeatedly stated that Officer Rodriguez would have to kill him. COPA finds that [REDACTED] reached for the firearm located below his seat immediately before Officer Rodriguez fired approximately three shots. COPA finds that Officer Rodriguez commanded [REDACTED] to remain in the vehicle, but that [REDACTED] disobeyed that command and again reached for the firearm after exiting the Mercury. COPA further finds that after [REDACTED] reached for the firearm and picked the firearm up from the ground, Sergeant Ronan fired six shots and Officer Rodriguez fired approximately three shots.²⁶ Under these circumstances it was objectively reasonable for Officer Rodriguez and Sergeant Ronan to believe that [REDACTED] posed an imminent threat of death or bodily harm to a sworn member or another person. For these reasons, Officer Rodriguez's and Sgt. Ronan's use of deadly force against [REDACTED] was objectively reasonable and complied with Department Policy, Illinois law, and the Fourth Amendment to the United States Constitution.

B. Officer Rodriguez violated Directive U04-02 by not fully loading his firearm

COPA finds that Officer Rodriguez violated Directive U04-02. Directive U04-02 requires that officers' firearms be fully loaded with only one manufacturer and style of prescribed ammunition. Officer Rodriguez admitted that he always keeps the magazine of his firearm one short of full capacity with a round in the chamber. Although Officer Rodriguez's explanation that he does not fully load his firearm because the magazine's springs are too tight is reasonable, Officer Rodriguez cannot simply choose to ignore Department directives he disagrees with. Full compliance with Directive U04-02 assists CPD and COPA in investigating firearm discharges.²⁷ Therefore, COPA recommends a finding of **Sustained** for **Allegation #1** against **Officer Rodriguez**, in that Officer Rodriguez did not have his firearm fully loaded in violation of Rules 2 and 3.

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

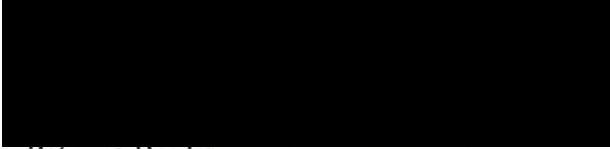
Officer	Allegation	Finding
Officer Michael Rodriguez	It is alleged that on July 16, 2017, Accused Officer Michael Rodriguez Star #5978, Employee # [REDACTED] Unit 025, while on-duty: 1. Did not have his firearm full loaded, in violation of Rules 2 and 3.	Sustained

²⁶ COPA cannot determine with absolute certainty how many times Officer Rodriguez fired while [REDACTED] was inside the vehicle versus how many time he fired after [REDACTED] exited the vehicle.

²⁷ To the extent fully loading a firearm may substantially increase the risk an officer's firearm malfunction, it may be appropriate for the Department to approve and document limited exceptions to Directive U04-02 on a case-by-case basis.


Andrea Kersten
Deputy Chief Administrator – Chief Investigator

2/27/18
Date


Patricia Banks
Interim Chief Administrator

2/27/18
Date

Appendix A

Assigned Investigative Staff

Squad#:	03
Investigator:	Miranda O'Boyle
Supervising Investigator:	Matthew Haynam
Deputy Chief Administrator:	Andrea Kersten